

PATENT APPLICATION

**RESPONSE UNDER 37 CFR §1.116
EXPEDITED PROCEDURE
TECHNOLOGY CENTER ART UNIT 2434**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Satoshi KONDO et al.

Group Art Unit: 2434

Application No.: 10/587,609

Examiner: M. RAHIM

Filed: July 28, 2006

Docket No.: 128875

For: SECURITY ENSURING BY PROGRAM ANALYSIS ON INFORMATION DEVICE
AND TRANSMISSION PATH

REQUEST FOR RECONSIDERATION AFTER FINAL REJECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the July 13, 2009 Office Action, the shortened statutory period for reply being extended by the attached Petition for Extension of Time, reconsideration of the rejections is respectfully requested in light of the following remarks and the attached translation.

Claims 7, 15 and 19-22 are pending.

I. Faillenot Does Not Qualify As Prior Art

The Office Action rejects claim 22 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2006/0101511 to Faillenot et al. ("Faillenot"). This rejection is improper because Faillenot does not qualify as prior art.

A. Faillenot Was Published After Applicants' PCT Date

The present application is a National Stage of PCT/JP2005/002104 filed February 4, 2005. On the other hand, Faillenot was published on May 11, 2006, after Applicant's PCT date. Thus, Faillenot does not qualify as prior art. In this regard, it is noted that the PCT filing date for Faillenot is not the effective filing date for Faillenot under 35 U.S.C. § 102(e) because the PCT publication for Faillenot was not in English. Faillenot does not have a reference date that is earlier than Applicant's PCT date.

Accordingly, disqualification of Faillenot as prior art under 35 U.S.C. §102(e) is respectfully requested. As such, the rejection of claim 22 is rendered moot.

B. The Submitted Translation Should Be Entered

An accurate English-language translation of JP 2004-029928, the priority document of this application, is attached herewith. This translation perfects the priority date of this application to February 5, 2004 (the filing date of the priority document). This translation is not required to disqualify Faillenot as prior art under 35 U.S.C. §102(e), and therefore does not require further consideration by the Examiner. In addition, any possible consideration, if needed, should have been foreseeable based on the prior claim for priority made in this application. Accordingly, entry of the translation of JP 2004-029928 is respectfully requested.

II. Claims 7, 15 and 19-21 Define Patentable Subject Matter

The Office Action rejects claims 7, 15 and 19-21 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,088,801 to Grecsek ("Grecsek") in view of U.S. Patent No. 7,123,914 to Matsubara et al. ("Matsubara"). This rejection is respectfully traversed.

Flowcharts 1 and 2 are attached to facilitate understanding of the remarks below, and are not new matter. Flowchart 1 is derived from claim 7 and illustrates an overview of some of the functionality of claims 7 and 15. Flowchart 1 is merely intended to be an overview to contrast

the differences discussed below and does not constitute a simplification of, disclaimer of or prejudice to the subject matter of claims 7 and 15. Flowchart 2 is adapted from Fig. 3 of Grecsek to further describe the functionality disclosed in Grecsek.

Claim 7 recites, among other features, "a storing unit that stores information on whether a function of a program provided via a network is permitted to be used; a receiving unit; a first receipt control unit that receives, using the receiving unit, before receiving a program via the network, function information indicating a function used in the program; a determining unit that determines whether to receive the program, by comparing function information received by the first receipt control unit and information stored by the storing unit; a second receipt control unit that receives, using the receiving unit, the program via the network if the determining unit determines to receive the program, and that cancels receipt of the program via the network if the determining unit determines not to receive the program." Claim 15 recites "a first step of receiving, before receiving a program via a network, function information indicating a function used in the program; a second step of determining, by comparing function information received in the first step and information on whether a function of a received program is permitted to be used, which is pre-registered in memory, whether to receive a program associated with the function information; a third step of receiving the program via the network if it is determined in the second step to receive the program; ... a fifth step of canceling reception of the program via the network if it is determined in the second step not to receive the program."

The Office Action asserts that Grecsek discloses the above-quoted features. As shown in Flowchart 2, Grecsek discloses a computer 100 that, before executing software process 110, evaluates the process to create a capabilities list describing capabilities found in the process 110 (step S21). Subsequently, the computer 100 reads a policy 200 and stores a capabilities list 210 that specifies various functions and an authorizations list 220 that specifies whether each of the

capabilities described in the capabilities list 210 is acceptable (step S22). Subsequently, the computer 100 compares the capabilities list 210 created at step S21 and the policy 200 read at step S22 to determine whether each capability found in the process 110 violates the policy 200 (step S23). The computer 100, if all of the capabilities found in the process 110 do not violate the policy 200 (step S23: NO), allows the execution of the process, and grants access to resources 130 (step S24). On the other hand, if either of the capabilities found in process 110 violates the policy 200 (step S23: YES), the computer 100 denies access to resources 130 accompanying the execution of the process (step S25).

In contrast, Flowchart 1 depicts a different functionality. As depicted in Flowchart 1, a receiving device, initially, before receiving a program, receives function information indicating a function used in the program (step S11). Subsequently, the receiving device compares the function information received at step S11 and information stored in a storing unit (step S12) to determine whether to receive the program (step S13). Claim 15 recites that the storing unit preregisters information (e.g., stores) on whether a function of a program provided via a network is permitted to be used. The receiving device, if determining to receive the program (step S13: YES), receives the program via a network (step S14). In this case, the receiving device executes the program, for example, in response to an instruction from a user (step S15). On the other hand, if determining not to receive the program (step S13: NO), the receiving device cancels receipt of the program (step S16).

According to the above-recited features of claims 7 and 15, the receiving device receives function information indicating a function used in a program before receiving the program, and if determining that the program contains a function not permitted to be used, on the basis of the function information, does not receive the program. Thus, a result is achieved that a program containing a function not permitted to be used, e.g., a harmful program, is prevented from entering the receiving device.

In the Responses to Arguments section on page 2 of the Office Action, the Office Action asserts that Grecsek discloses this feature at col. 4, lines 14-19. Grecsek discloses that the authorizations 220 can be used to grant access or deny access to a process based on policy 200. Thus, Grecsek discloses evaluating process 110 before executing the process 110 to determine whether capabilities found in the process violate policy 200, and determining whether to allow execution of process 110 and access to resources 130 accompanying the execution of the process, on the basis of the capabilities found in the process, before executing the process.

However, Grecsek does not disclose a configuration for determining whether to receive a program, or a configuration for receiving function information indicating a function used in the program, before receiving the program, to determine whether to receive the program. In other words, Grecsek fails to disclose the "first receipt control unit," the "determining unit" and the "second receipt control unit," as recited in claim 7. Likewise, Grecsek fails to disclose the first, second, third and fifth steps, as recited in claim 15.

In Grecsek, evaluation of process 110 is made to create a capabilities list. A comparison of the capabilities list and predetermined policy 200 is made to determine whether the process violates policy 200. Accordingly, in Grecsek, unless process 110 is introduced into computer 110, evaluation of the process cannot be made. In other words, in Grecsek, it is necessary to introduce process 110 into computer 100 to evaluate whether the process violates policy 200, even if the process is a process that violates policy 200. In contrast, as recited in claims 7 and 15, function information indicating a function used in a program, is received before receiving the program. If determining that the program contains a function not permitted to be used, e.g., a harmful program, the program is prevented from entering into the receiving device of claim 7, or prevented from being received in claim 15, so that higher security is achieved than can be achieved with the computer 100 of Grecsek.

In addition, in Grecsek, it is necessary to receive and install process 110, even if the process violates policy 200. In contrast, in claims 7 and 15, it is unnecessary to receive or install a program, if the program is problematic. In addition, memory resources to be used by a problematic program are prevented from being used. Also, by avoiding receipt of a problematic program, unnecessary communications charges or bandwidth usage can be avoided. Claims 7 and 15 achieve at least these unexpected results as compared with computer 100 of Grecsek.

Matusbara fails to cure at least these deficiencies of Grecsek.

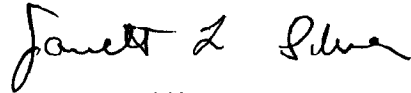
For at least the above reasons, Grecsek cannot reasonably be considered to teach, or to have rendered obvious, the combinations of features positively recited in independent 7 and 15. Further, as shown above, Matsubara is not applied in any manner that would overcome the above-identified shortfall in the application of Grecsek to the subject matter of independent claims 7 and 15. To any extent that Grecsek is even combinable with Matsubara, a conclusion which Applicants do not concede, no permissible combination of these references can reasonably be considered to have rendered obvious the combination of all of the features positively recited in claims 19-21, for at least the respective dependence of these claims directly on an allowable base claim, as well as the separately allowable subject matter that these claims recite.

Accordingly, reconsideration and withdrawal of the rejections of claims 7, 15 and 19-21 under 35 U.S.C. §103(a) as being unpatentable over the applied references are respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 7, 15 and 19-22 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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JAO:JZS/ccs

Attachments:

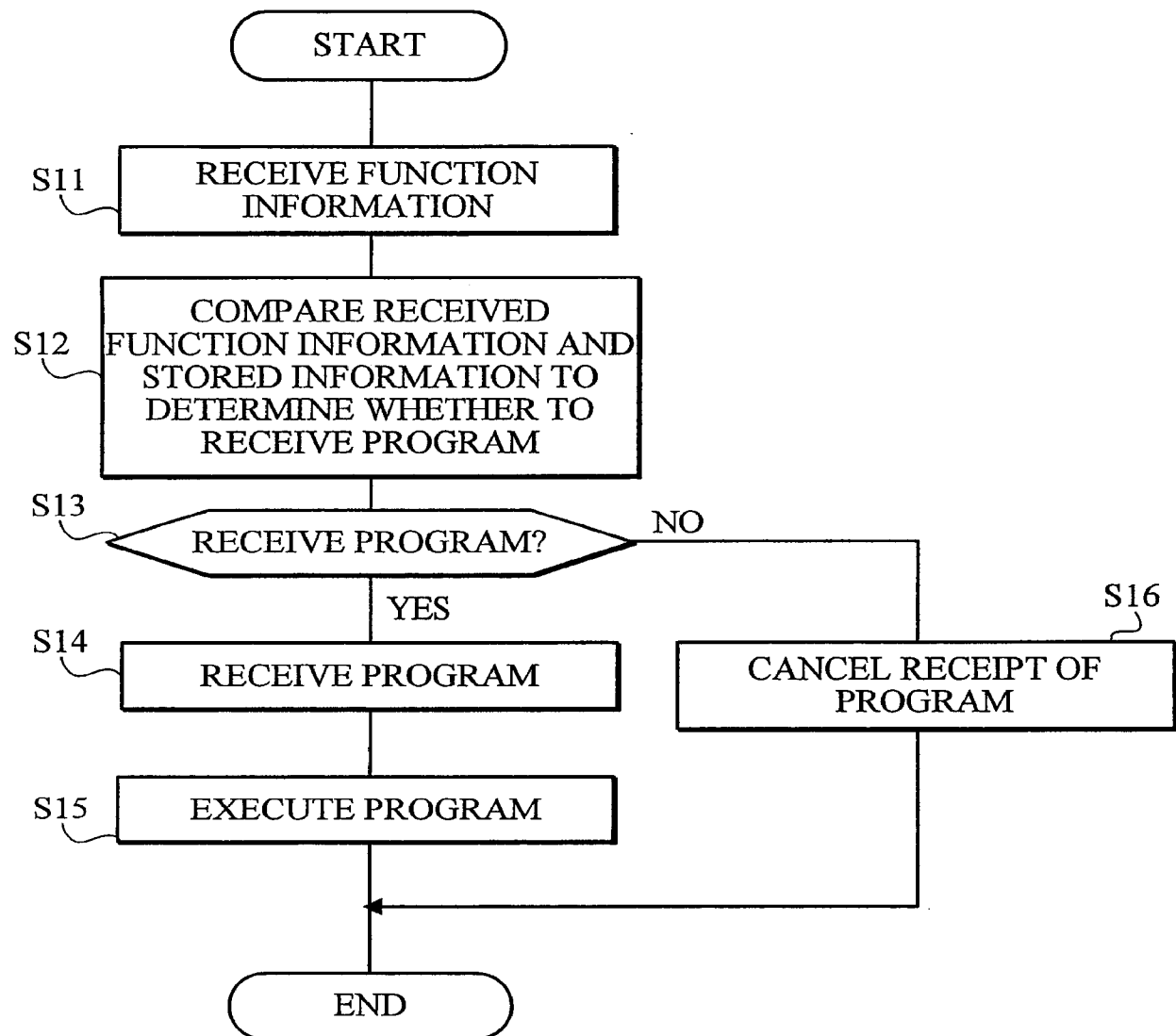
Petition for Extension of Time
English-Language Translation of JP 2004-029928
Flowcharts 1 and 2

Date: January 12, 2010

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<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry of this filing; Charge any fee due to our Deposit Account No. 15-0461</p>

FLOWCHART 1



FLOWCHART 2

